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10/584,164	04/09/2007	Hansjoerg Meerpohl	2003P01977WOUS	4747

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BSH HOME APPLIANCES CORPORATION  
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EXAMINER
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GRAVINI, STEPHEN MICHAEL

ART UNIT	PAPER NUMBER
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3743

MAIL DATE	DELIVERY MODE
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06/19/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/584,164	<b>Applicant(s)</b> MEERPOHL ET AL.	
	<b>Examiner</b> Stephen M. Gravini	<b>Art Unit</b> 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-35 is/are pending in the application.
- 4a) Of the above claim(s) 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-31 and 33-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) 32 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 16-27, drawn to a method subcombination.

Group II, claim(s) 28-31 and 33-35, drawn to an apparatus subcombination.

Group III, claim(s) 32, drawn to an apparatus subcombination.

The inventions listed as Groups I, II, and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Inventions of group I and groups II-III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another and materially different apparatus or by hand because the group I feature of performing an anti-crease cycle having alternating intervals including rotary movement time intervals, in which the drum is rotated to agitate the laundry, and stoppage time intervals, in which the drum stops rotating and the laundry is at rest, the duration of the rotary movement intervals decreasing in relation to the stoppage time intervals in

response to an operating parameter is not a structural or functional limitation to the group II-III inventions.

Inventions of group II and group III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination group III has separate utility such as an anti-crease cycle which is separate and distinct from the group III drying cycle because that anti-crease does not overlap in scope or is an obvious variant to drying. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after

the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Newly submitted claim 32 is directed to an invention that is independent or distinct from the invention originally claimed for the reasons set forth above.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 32 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be "material to patentability as defined in 37 CFR 1.56."

The current declaration states "material to examination" and rule "56(a)" but should include the statement above.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

Claims 16-19, 23, and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Janke (US 3,702,030). The claims are reasonably and broadly construed, in light of the accompanying specification, to be disclosed by Janke as comprising:

performing a drying program including a heating-up phase, a drying phase, and a cooling-down phase at column 7 lines 13-35;

performing an anti-crease cycle having alternating intervals including rotary movement time intervals, in which the drum is rotated to agitate the laundry, and stoppage time intervals, in which the drum stops rotating and the laundry is at rest, the duration of the rotary movement intervals decreasing in relation to the stoppage time intervals in response to an operating parameter at column 5 lines 18-48; or alternatively:



a housing **10**;

a drum **11** receiving the laundry and mounted for rotation with respect to the housing;

a motor **17** coupled to the drum for driving rotation of the drum;

an inlet duct **13** providing an air flow to the drum and a heating device selectively heating air in the inlet duct; an outlet duct receiving the air flow from the drum;

a control device **23** coupled to the motor and controlling rotation of the drum, the control device performing an anti-crease cycle including alternately rotating the drum during rotary movement time intervals and stopping rotation of the drum during stoppage time intervals, the control device decreasing the duration of the rotary movement intervals decreasing in relation to the stoppage time intervals in response to an operating parameter at column 5 lines 18-48. Janke also discloses the claimed operating parameter includes the length of time of the anti-crease cycle as shown in figure 3, act of detecting the temperature of the laundry with a sensor and the operating parameter includes a decrease in the temperature of the laundry at column 8 lines 31-56, act of detecting the residual moisture of the laundry with a sensor and the operating parameter includes a decrease in the residual moisture of the laundry at column 7 lines 13-35, act of detecting at least one of a quantity of laundry, a heating-up time, a laundry moisture, a laundry moisture profile, a laundry specific conductance, a profile of the laundry specific conductance, a moisture content and/or the moisture profile, a temperature of the laundry, a temperature profile of the laundry, a temperature of the drying air, a temperature profile of the drying air in the drum of the laundry dryer, a

Art Unit: 3743

comparison of the moisture content, a moisture profile, a temperature of the drying air, a temperature profile of the drying air in the drum of the laundry dryer between entry into the drum and exit from the drum, and a time before reaching a drying target at column 8 lines 31-56, timing element providing a length of time of the anti-crease cycle to the control device and the operating parameter including an increase in the length of time of the anti-crease cycle as shown in figure 3, temperature sensor detecting the temperature of the laundry and providing a temperature signal to the control device indicating the temperature of the laundry, the operating parameter including the temperature signal at column 8 lines 31-56, electrodes detecting a moisture level of the laundry and providing a moisture signal to the control device indicating the moisture level of the laundry, the operating parameter including the moisture signal at column 7 lines 13-35.

### ***Claim Rejections - 35 USC § 103***

Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janke in view of St. Louis (US 2003/0097764). Janke discloses the claimed invention, as rejected above, except for the claimed user pre-selection. St. Louis, another dryer, discloses that feature in the abstract. It would have been obvious to one skilled in the art to combine the teachings of Janke with the user pre-selection feature in order to allow various operator controls for different laundering requirements.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Janke in view of Park (US 2005/0252082). Janke discloses the claimed invention, as rejected above, except for the claimed step of detecting an amount of laundry. Park, another

Art Unit: 3743

dryer, discloses that feature at paragraph [0049]. It would have been obvious to one skilled in the art to combine the teachings of Janke with the detecting an amount of laundry feature in order to allow various operator controls for different laundering requirements.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Janke in view of Worst (US 3,309,783). Janke discloses the claimed invention, as rejected above, except for the claimed step of reverse rotation. Worst, another dryer, discloses that feature at column 1 lines 14-60. It would have been obvious to one skilled in the art to combine the teachings of Janke with the reverse rotation feature in order to allow various operator controls for different laundering requirements.

Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janke. Janke discloses the claimed invention, as rejected above, except for the claimed stop time intervals with subsequent magnitudes. It would have been an obvious matter of design choice to recite that feature, since the teachings of Janke would perform the invention, as claimed, regardless of the recited time intervals and magnitude.

Claims 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janke in view of Kohlman et al. (US 6,381,870). Janke discloses the claimed invention, as rejected above, except for the claimed anti-crease feature. Kohlman, another dryer, discloses that feature at column 4 line 53 through column 5 line 17. It would have been obvious to one skilled in the art to combine the teachings of Janke with the anti crease

Art Unit: 3743

feature of Kohlman in order to allow various operator controls for different laundering requirements.

***Response to Arguments***

Applicant's arguments filed April 20, 2009 have been fully considered but they are not persuasive.

***Janke anticipation***

Applicants argue that the claims should be allowed over the Janke reference because the desirability of an anti-crease cycle. The Janke reference inherently discloses this feature because the structure and function of that teaching reference anticipates all of the claimed features as rejected. Furthermore, it necessarily follows that it would be desirable to have an anti-crease cycle, because when a dryer is operated as claimed, in light of Janke, anti-crease would occur.

Also, statements of desirability and intended uses do not overcome the prior art unless the claimed invention is structurally and functionally different from the prior art. In this application, the claimed structure and function is met by Janke because the structure and function of that reference meets the desirability of an anti-crease function.

***obviousness***

Applicants argue that since the anticipation rejection should be withdrawn, then so should the obviousness rejections. The anticipation rejection is proper such that the obviousness rejection is also proper.

### ***Conclusion***

Other prior art references cited with this action disclose one or more features of the claimed invention, but are not relied upon in this action, in rejecting the claims.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth B. Rinehart can be reached on 571 272 4881. The fax phone

Art Unit: 3743

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. Gravini/  
Primary Examiner, Art Unit 3743